

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US05/01620

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

a sequence listing
 table(s) related to the sequence listing

b. format of material

in written format
 in computer readable form

c. time of filing/furnishing

contained in international application as filed.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority for the purposes of search.

3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

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Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>11-16</u>	YES
	Claims <u>1-10, 17-20</u>	NO
Inventive step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-20</u>	NO
Industrial applicability (IA)	Claims <u>1-20</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and explanations:

Claims 1-10 and 17-20 lack novelty under PCT Article 33(2) as being anticipated by Vincent et al. 5658298.

As to claims 1-12, 15, and 16, Vincent et al. teaches an releasably-securable adjustable gastric band comprising: a tail end (11 + 12 + 13); a head end (14 + 15 + 16 + 17 + 18); a releasable locking means (fig. 2); a tooth (13) formed on a portion of the tail end; a notch in the head end (15); a release tab (16); wherein application of force to the release tab in a direction substantially perpendicular to a central axis of the gastric band allow the tooth to disengage from the notch so as to allow the release of the tail end from the head end (fig. 6); a visual securing indicator; a window for providing positive visual indication when the head end and tail end are releasably secured together (fig. 2); wherein the gastric band is releasably locked in place when the indicator appears in the window following insertion of the tail end into the head end (fig. 2); a tactile securing indicator (after 12 passes through 15); wherein the band is adjustable via hydraulic inflation; an inflation tube; wherein the band is mechanically adjustable; wherein the band is remotely adjustable (col. 2, lines 50-54).

As to claims 17-20, Vincent et al. teaches a method of releasing a releasably-securable gastric band comprising the steps of: grasping a release tab positioned on a head end of the gastric band; applying force to the release tab in a direction substantially perpendicular to a central axis of the gastric band; wherein the application of forces caused a tooth portion of the gastric band to disengage from a notch portion of the gastric band to allow the release of the tail end from the head end; and further comprising a step of grasping a gripping land for holding the gastric band in preparation for the application of force step (fig. 6).

Claims 11-16 lack an inventive step under PCT Article 33(3) as being obvious over Vincent et al. in view of Vincent 5601604.

As to claims 11, 12, 15 and 16, Vincent et al. teaches the releasably-securable gastric band of claim 1. It should be noted that Vincent et al. fails to specifically teach wherein the band is adjustable via hydraulic inflation; and inflation tube; wherein the band is mechanically adjustable; and wherein the band is remotely adjustable. Vincent et al. does however teach that it is known for a gastric band to be adjustable via hydraulic inflation; an inflation tube; wherein the band is mechanically adjustable; and wherein the band is remotely adjustable as taught by copending application 08/068411 now US Patent 5601604 (col. 2, lines 50-54). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a form of hydraulic inflation for allowing adjustment of the stoma created by the gastric band (col. 2, line 25-32, '604).

As to claim 13, Vincent/Vincent teaches the releasably-securable gastric band of claim 12, wherein the tail end comprises the inflation tube 14.

As to claim 14, Vincent/Vincent discloses the claimed invention except for wherein the head end comprises the inflation tube. It would have been obvious to one having ordinary skill in the art at the time the invention was made to place the inflation tube one the head end, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art.